

October 15, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L03P0029**
Proposed Ordinance No. **2004-0442**

STAR LAKE EAST
Preliminary Plat Application

Location: East of 46th Avenue South and south of South 279th Street

Applicant: Hardeep Singh
represented by **James Jaeger**
Jaeger Engineering
9419 South 204th Place
Kent, Washington 98031
Telephone: (253) 850-0934
Facsimile: (253) 850-0155

King County: Department of Development and Environmental Services
represented by **Kim Claussen** and **Bruce Whittaker**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167 and 296-7211
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions

Examiner's Decision:

Approve, subject to modified conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

October 14, 2004

Hearing Closed:

October 14, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Hardeep Singh
21625 4th Avenue South
Normandy Park, WA 98198

Engineer: Jaeger Engineering
9419 South 204th Place
Kent, WA 98031
253-850-0155

STR: 34-22-04

Location: Generally between South 279th Street, south of South Star Lake Road, on the east side of 46th Avenue South

Zoning: R-4
Acreage: 10.06 acres
Number of Lots: 30
Density: Approximately 3 units per acre
Lot Size: Approximately 5,000 – 7,800 square feet in size
Proposed Use: Single Family Detached Dwellings
Sewage Disposal: Lakehaven Utility District
Water Supply: Highline Water District
Fire District: King County Fire District No. 39
School District: Federal Way School District

Complete Application Date: December 31, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the October 14, 2004, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Hardeep Singh has filed a preliminary plat application to subdivide 10.06 acres into 30 lots for single-family residential development. The property is located on the east side of 46th Avenue South and south of Star Lake Road. The preliminary plat application for Star Lake East was initially approved in 1998 for 24 lots under file no. L96P0031. The property was cleared and a

drainage conveyance pipe and outfall installed, but the preliminary approval expired before the final plat could be completed. The current application increases the lot count to 30 and upgrades the drainage requirements to a Level 3 flow control under the 1998 Surface Water Design Manual standards.

4. North Creek, a class 1 stream also known as Mullen Creek tributary 0049, originates at Bingaman Pond southwest of the site and flows east within a steep erosional ravine that traverses the southern part of the plat property. The ravine descends the upland slopes into the Green River valley where it encounters a flatter terrain, some undersized culverts and pipes, and chronically clogged flow channels draining north to the Green River. Most of the plat issues relate to this creek and ravine feature.
5. As noted, the plat drainage will be upgraded to a Level 3 flow control designed to avoid exacerbating erosional conditions and meter flows at a rate which eliminates elevated peak durations. DDES staff regards the chronic flooding conditions within the Green River valley floor to be regional problems that must be addressed through the cooperation of a number of public agencies and the affected property owners.
6. The steep slopes above the creek ravine have been evaluated by a geotechnical engineer and provided with a 40-foot buffer where such slopes adjoin the southern tier of plat lots. A neighboring property owner, Michael Norris, argued in favor of a condition requiring the Applicant to fence, for public safety purposes, the top of the ravine slope from 46th Avenue South east for 300 feet. This does not appear to be a feasible suggestion because the slope top is mostly located south of the Star Lake East property boundary and no County codes require the fencing of residential properties. It may be that the eventual lot owners will choose to construct boundary fencing north of the slope, but such cannot be made a condition of plat approval.
7. The Applicant has also requested modification of condition 13 restricting driveway access from 46th Avenue South to Lot 21 at the southwest corner of the plat. Even though 46th Avenue South in this area is constrained by a downhill slope, allowing access directly to Lot 21 appears acceptable if the driveway is located opposite the constructed portion of the South 280th Street right-of-way where it intersects 46th Avenue South.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Star Lake East, as revised and received on May 18, 2004, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet

as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

7. The drainage facilities shall be designed in accordance with the 1998 King County Surface Water Design Manual (KCSWDM) and the Level 3 flow control requirement.
8. A stormwater conveyance pipe is required from the top of the steep slope on the site to the toe of the slope adjacent to the stream below. The conveyance line shall be designed as a surface pipe with minimum disturbance to the slope and sufficient durability to withstand slope movement. The line shall be High Density Polyethylene Pipe (HDPP) and designed and constructed per the 1998 King County Surface Water Design Manual and the manufacturer's recommendations. An energy dissipater shall be designed and constructed to the outfall area to reduce the velocity of the water and provide the outfall area erosion protection. Geotechnical recommendations shall be included with the design.

Note that this conveyance pipe was constructed on the site under previous plat approval L96P0031 (expired). The pipe shall be reviewed and inspected under this current proposal.

9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. South 279th St./47th Place South shall be improved to the urban sub-access street standard with provisions for a mid-block turnaround (reference previous engineering plans activity L03SR028).
 - b. FRONTAGE: The frontage of the site along 46th Ave South (east side only) shall be improved to the urban neighborhood collector standard from the south boundary of the plat to the north boundary. The south portion of the frontage improvement within the existing steep slope area shall be excluded, as approved by DDES.
 - c. If a design for direct access from 46th Avenue South to Lot 21 is not submitted to and approved by DDES, proposed Lots 20 and 21 shall be served by a joint use driveway tract per Section 3.01 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.
 - d. Tract E shall be a minimum 26-feet wide and improved as a private access tract per Section 2.09 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the final plat map.
 - e. Tract D shall be dedicated as a public pedestrian access Tract and improved with a minimum 5-feet wide paved surface. Additionally, a 10-feet wide public pedestrian access easement

shall be dedicated and improved across Recreation Tract A which shall align with the Tract D walkway.

- f. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. Except for proposed lot 21, there shall be no direct vehicular access to or from 46th Avenue South from those lots which abut it. Lot 21 may construct driveway access to 46th Avenue South at a location opposite the constructed portion of the South 280th Street right-of-way to the west, as approved by DDES.
14. The plant islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners' association. This shall be stated on the final plat.
15. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
16. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from K.C.C. 21A.24 shall also be addressed by the applicant.

Streams

- a. Class 1 streams shall have a minimum 100-foot buffer, measured from the ordinary high water mark (OHWM).

- b. The streams and their respective buffers shall be placed in Sensitive Area Tracts (SAT). A separate SAT shall be designated for the onsite portion of the stream buffer lying south of Lots 16 through 21.

Alterations to Streams or Wetlands

- c. If alterations of streams and/or wetlands are approved in conformance with K.C.C. 21A.24, then a detailed plan to mitigate for impacts from that alteration will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval to guarantee that the mitigation measures are installed according to the plan. Once the mitigation work is completed to a DDES Senior Ecologist's satisfaction, the performance bond may be replaced by a maintenance bond for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be installed prior to final inspection of the plat.

Geotechnical

- d. Determine the top, toe and sides of 40% slopes by field survey. The standard 50-foot buffer may be reduced to 40 feet adjacent to lots 16 through 21 and to 25 feet east of such lots, as shown on the approved preliminary plat map.
- e. The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in K.C.C. 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in K.C.C. 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.
- f. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and

Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

17. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
19. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners' association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.

- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 46th Ave S. is on a bus route. If so the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

ORDERED this 15th day of October, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 15th day of October, 2004, to the parties and interested persons of record:

Milton & Patricia Cason
4514 S. 280th St.
Auburn WA 98001-1128

Paul Dorian
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In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before October 29, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 5, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 14, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0029.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley, representing the Department; James Jaeger representing the Appellant; and Michael Norris.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES file no. L03P0029
Exhibit No. 2	DDES preliminary report date October 14, 2004

Exhibit No. 3	Application dated December 2, 2003
Exhibit No. 4	Environmental checklist, received December 2, 2003
Exhibit No. 5	Declaration of non-significance dated September 20, 2004
Exhibit No. 6	Affidavit of Posting indication a posting dated of February 20, 2004; received on March 5, 2004
Exhibit No. 7	Plat map, received May 18, 2004
Exhibit No. 8	Assessor's maps – NE & SE 34-22-04
Exhibit No. 9	<i>Not entered</i>
Exhibit No. 10	Preliminary drainage calculations by Jaeger Engineering, dated November 16, 2003
Exhibit No. 11	Copy of original DNS, dated October 2, 1998
Exhibit No. 12	Examiner's report for Star Lake East, DDES file no. L96P0031, dated November 4, 1998
Exhibit No. 13	Revised drainage calculations by Jaeger Engineering, received August 9, 2004
Exhibit No. 14	Discussion of School Walkway Routes, received August 9, 2004
Exhibit No. 15	Letter from Federal Way Public Schools, dated March 4, 2004
Exhibit No. 16	Conceptual Drainage plan received August 9, 2004
Exhibit No. 17	Annotated downstream drainage map
Exhibit No. 18	Downstream drainage complaint investigation reports, received May 18, 2004
Exhibit No. 19	Level 1 Drainage Analysis by Dowl Engineers, dated May 8, 1996

SLS:ms
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